

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

REALTIME DATA LLC d/b/a IXO,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 6:15-cv-463
	§	
ACTION CORPORATION and	§	LEAD CONSOLIDATED CASE
PERVASIVE SOFTWARE, INC.,	§	
	§	
Defendants.	§	

REALTIME DATA LLC d/b/a IXO,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 6:15-cv-468
	§	
RIVERBED TECHNOLOGY, INC.	§	JURY TRIAL DEMANDED
and DELL INC.,	§	
	§	
Defendants.	§	
	§	

**DEFENDANT RIVERBED TECHNOLOGY'S MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM**

Defendant Riverbed Technology, Inc. ("Riverbed") hereby moves that Realtime Data LLC d/b/a IXO's ("Realtime") Complaint (Case No. 6:15-cv-468, Dkt. No. 1) be dismissed under Federal Rule of Civil Procedure 12(b)(6) because it fails to state a claim upon which relief can be granted. To conserve judicial resources and unnecessary repetition, Riverbed adopts and incorporates by reference as if set forth fully herein the Motion to Dismiss First Amended Complaint filed on July 24, 2015

by Defendants SAP America Inc., Sybase, Inc., Hewlett-Packard Company, HP Enterprises Services, LLC, Dell Inc., BMC Software, Inc., Echostar Corporation, and Hughes Network Systems, LLC in cause number 6:15-cv-463-RWS-JDL (Dkt. 23).

For the reasons stated in Defendants' Motion to Dismiss (Dkt. 23), and incorporated and adopted fully herein, Riverbed respectfully requests that the Court find U.S. Patent No. 7,378,992, U.S. Patent No. 7,415,530, and U.S. Patent No. 8,643,513¹ invalid under 35 U.S.C. § 101 and to therefore dismiss Realtime's Complaint for failure to state a claim upon which relief can be granted.

Dated: July 27, 2015

Respectfully Submitted,

/s/ Matthew P. Chiarizio

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RIVERBED TECHNOLOGY, INC.

¹ The Motion to Dismiss addresses a fourth patent, U.S. Patent No. 6,597,812 ("the '812 Patent"). The '812 Patent is not asserted against Riverbed, so any portions of the Motion to Dismiss regarding solely the '812 Patent are moot as to Riverbed.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing filing was served on all counsel of record via the Court's CM/ECF system in accordance with the Federal Rules of Civil Procedure and Local Rule CV-5(a)(3) on July 27, 2015.

/s/ Matthew P. Chiarizio

Matthew P. Chiarizio